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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,244	07/15/2003	Paul R. Schuster	25896.563/P0164A	8921

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EXAMINER	
WEST, LEWIS G	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
02/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/620,244	SCHUSTER ET AL.	
	Examiner	Art Unit	
	Lewis G. West	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-7 and 9-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-7 and 9-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2 pages*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Arguments

Applicant's arguments with respect to claims 1-2, 3-7 and 9-13 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, possibly due to poor grammar and/or punctuation, it appears as though wither two transmitters are claimed, or either that the receiver is part of the transmitter, both of which are inconsistent with the specification. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 3-7 and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Aijala (US 7,316,025).

Regarding claim 1, Aijala discloses an audience measurement system comprising a radio frequency (RF) proximity detection and identification system, comprising: a plurality of portable people meters each comprising an RF transmitter for receiving a control signal, modulating an RF signal to a preset modulation frequency upon receipt of the control signal, and wirelessly transmitting the modulated signal (inherent to the cellular connection); each of the RF transmitters being operative to modulate the RF signal with a respectively different modulation signal (col. 9 lines 10-33) and an RF receiver for receiving each of the wirelessly transmitted modulated signal, determining the modulation frequency, and transmitting the modulation frequency to a remote location. [Col. 7 lines 65-Col. 8 lines 26; Col. 9 lines 10-33]

Regarding claim 2, Aijala discloses the RF proximity detection and identification system of claim 1, wherein a transmission power of each RF transmitter is preset to transmit the modulated signal within a predetermined range. [Col. 7 lines 57-64; AGC is used to control power and therefore range to predetermined limits]

Regarding claim 4, Aijala discloses an audience measurement system having a plurality of portable people meters (PPM) and a base unit, the CBET system containing a radio frequency (RF) proximity detection and identification system, comprising: an RF transmitter located in each PPM for receiving a control signal (14,15,16), modulating an RF signal to a preset modulation frequency, and wirelessly transmitting the modulated signal; each of the RF transmitters being operative to modulate the RF signal with a respectively different modulation signal (col. 9 lines 10-33) and, an RF receiver located in the base unit for receiving the wirelessly

transmitted modulated signal, determining the modulation frequency, and transmitting the modulation frequency to a remote location. [Col. 7 lines 65-Col. 8 lines 26; Col. 9 lines 10-33]

Regarding claim 5, Aijala discloses the system of claim 4, wherein the transmission power of the RF transmitter is preset to transmit the modulated system within a predetermined range. [Col. 7 lines 57-64; AGC is used to control power and therefore range to predetermined limits]

Regarding claim 6, Aijala discloses the system of claim 5, wherein the RF transmitter further comprises an RF modulator for receiving the control signal and outputting an RF signal modulated to its respectively different modulation frequency. [Col. 7 lines 65-Col. 8 lines 26; Col. 9 lines 10-33]

Regarding claim 7, Aijala discloses the system of claim 6, wherein the RF receiver further comprises an RF demodulator unit for receiving the wirelessly transmitted RF modulated signal, demodulating the received signal, and determining the modulation frequency of the received signal. [Col. 7 lines 65-Col. 8 lines 26; Col. 9 lines 10-33]

Claim 9, Aijala discloses a radio frequency (RF) proximity detection and identification method for use in an audience survey system comprising the steps of: in each of a plurality of PPMs modulating an RF signal to a preset modulation frequency upon receipt of a control signal; each of the PPMs being operative to modulate the RF signal with a respectively different modulation signal (col. 9 lines 10-33) wirelessly transmitting the modulated signal from a transmitter; receiving the wirelessly transmitted modulated signal; determining the modulation frequency of the received signal; and transmitting the modulation frequency to a remote location. [Col. 7 lines 65-Col. 8 lines 26; Col. 9 lines 10-33]

Regarding claim 10, Aijala discloses the RF proximity detection and identification method of claim 9, wherein a transmission power of the transmission of the modulated signal is preset to transmit within a predetermined range. [Col. 7 lines 57-64; AGC is used to control power and therefore range to predetermined limits]

Regarding claim 11, Aijala discloses an audience measurement system having a plurality of portable people meters (PPM), the system containing a radio frequency (RF) proximity detection and identification system, the RF proximity detection and identification system comprising: an RF transmitter unit contained in each of the PPMs, comprising: an RF modulation unit for receiving a control signal and modulating an RF signal to a different preset modulation frequency for each PPM; and a transmitter in each of the PPMs for transmitting the modulated signal as an RF modulated signal; and a receiver for receiving the transmitted modulated signal; and an RF demodulator unit for demodulating the modulated signal, and determining the modulating frequency of the signal. [Col. 7 lines 65-Col. 8 lines 26; Col. 9 lines 10-33]

Regarding claim 12, Aijala discloses the RF proximity detection and identification system of claim 11, wherein the modulating frequencies are transmitted to a remote location for further processing. [Col. 7 lines 65-Col. 8 lines 26; Col. 9 lines 10-33]

Regarding claim 13, Aijala discloses the RF proximity detection and identification system of claim 12, wherein a transmission power of the transmitter is preset to transmit the modulated signal within a predetermined range. [Col. 7 lines 57-64; AGC is used to control power and therefore range to predetermined limits]

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis G. West whose telephone number is 571-272-7859. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lewis G. West
Primary Examiner
Art Unit 2618